THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 7896 of 1997

21-02-2007

Between:-

V. Satyanarayana Murthy

Petitioner

And

The Commissioner for Co-operation & Registrar
Of Co-operative Societies, Gruhakalpa, Nampally,
Hyderabad and three others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 7896 of 1997

Oral order:

The petitioner was initially appointed as a Paid Secretary in the Kakinada District Co-operative Central Bank under Common Cadre Regulations framed by the Registrar of Co-operative Societies under Section 116A of A.P. Co-operative Societies Act, 1964 (for short 'the Act'), in 1978. While he was working as Secretary in Kolimeru Primary Agricultural Co-operative Society (for short PACS) the common cadre of Paid Secretaries was abolished with effect from

22-04-1985; Paid Secretaries were declared as permanent employees of the PACS, under Section 116AA of the Act; and the Registrar of Co-operative Societies

was authorised to allot such de-caderised Secretaries to the PACS as may be deemed appropriate and subject to Rules made by the State. The A.P. Co-operative Societies Rules, 1964 (for short 'the Rules') were also suitably amended and Rule 72 was incorporated setting out guidelines for allocating de-caderised Secretaries to various societies.

According to Rule 72 (3) of the Rules, a Secretary, on allotment to a Society, is deemed to be an employee of that Society; is entitled to receive pay and allowances as may be fixed from the funds of the said Society; and the service conditions of the Secretaries working in societies shall be governed by such service regulations as may be framed by the Registrar for adoption by the Societies.

Rule 72 (4) of the Rules mandates that subject to the disciplinary procedure laid down in the Service Regulations as may be issued by the Registrar of Co-operative Societies and to be adopted by the Societies, the society shall exercise disciplinary control over the Secretary.

Rule 72 (5) immunised by a *non obstante* provision ordains that until the allotment of the Secretaries is made to the PACS as per the guidelines laid down in sub-rules (1) and (2) of Rule 72 of the Rules, the Secretaries, for the purpose of disciplinary control, shall be governed by the Common Cadre Regulations existing prior to the abolition

of the common Cadre of Secretaries of Primary Agricultural Co-operative Societies and the General Managers of the Co-operative Central Banks on a decision by the Registrar shall initiate action against the said Secretaries for the lapses committed by them in the societies they are working in after the de-caderisation.

On the basis of a report of the Divisional Co-operative Officer, Peddapuram that the petitioner, a Paid Secretary of Gorinta PACS (at that time) had misappropriated the Society's funds as specified and has also as directed to initiate disciplinary action against the petitioner, the third respondent placed the petitioner under suspension pending inquiry. In view of the provisions of Rule 72 (5) of the Rules, the third respondent has the power to place the petitioner under suspension pending inquiry in view of the serious allegations of misconduct against him of misappropriation of funds of the Society whereat he was working as a Secretary. The petitioner's contention that the third respondent has no power, authority or jurisdiction to suspend the petitioner, as the service regulations issued by the Registrar contour the disciplinary power under Rule 73 (4) of the Rules, is a contention that is misconceived.

It is pointed out in the counter affidavit of the third respondent that in the East Godavari district final allotment of Secretaries could not be concluded due to orders of

stay by this court. In the circumstances, it is not Rule 72 (4) of the Rules that applies, but Rule 72 (5) of the Rules. Accordingly, the order of the third respondent placing the petitioner under suspension pending inquiry is not vitiated on account of lack of competence or absence of jurisdiction.

The petitioner also asserts that there is no factual basis for the allegations levelled against him and that the President of the Society was himself running the show. These are not matters that are appropriate for consideration by this court at the stage of suspension pending inquiry. Whether the petitioner is guilty of the allegations levelled against him, which led to the order of suspension, is an issue that needs to be decided at the final hearing in an inquiry to be conducted. A curtain-raiser scrutiny by this court into the allegations against the petitioner is inappropriate in a writ petition challenging an order of suspension pending inquiry.

For the aforesaid reasons, there are no merits. The writ petition is accordingly dismissed. The interim order dated 03-07-1997 stands dissolved. No costs.

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GODA RAGHURAM, J

Dated:21-02-2007
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